

THE DEWAN'S STATEMENT ON THE QUESTION OF RESPONSIBLE GOVERNMENT.

DEWAN: Under Section 6 (3) of Regulation II of 1108, I am empowered to address the Assembly and may, for that purpose, require the attendance of the members of this Assembly. I have ventured, honourable members of the Assembly, to exercise this power vested in me for a reason which I shall presently explain. The occasion for the exercise of that power is undoubtedly the circumstance that one honourable member of this House has given notice of a motion for adjourning the business of this House in order to discuss a matter of urgent public importance, *viz.*, the conferment on or the grant of responsible Government to the people of the State subject to the prerogative and the powers of His Highness the Maharaja. In the nature of things it would be very difficult, indeed, according to our Rules and Regulations to allow any full discussion on that matter. The position may be thus summarised.

The motion for adjournment is made under Rule 20 and Rule 21. "A motion for the adjournment of the business of either House for the purpose of discussing a definite matter of urgent public importance may be made" it is stated "with the consent of the President."

But the motion must not deal with a matter on which a resolution could not be moved. Turning to the provisions relating to resolutions, it will be found that no discussion can be permitted in regard to "any matter removed from the cognizance of the Chamber under Section 17 of the Regulation." It will be noticed that Section 17 exempts from discussion "any matter pertaining to the relations of Our Government with the Paramount Power or with Foreign Princes or States." And therefore it makes it impossible for any discussion or a debate to take place on the floor of this House regarding the relations between His Highness the Maharaja and the British Paramount Power. Similarly are matters governed by treaties, conventions or agreements now in force or hereafter to be made by Our Government with the Paramount Power. That rules out all discussion regarding Federation. Moreover, under Sub-Clause (d) of Section 17, the provisions of this Regulation and the Rules framed thereunder are also kept out of discussion. In other words, any form of Government other than that prescribed by this Regulation, *viz.*, the form of Government of His Highness the Maharaja through the instrumentality of the Dewan and the Dewan alone, is outside the pale of discussion in this House. Therefore, there could be no effective discussion of any question raised or sought to be raised by means of this motion for the adjournment of the debate. It will be my duty to rule out whenever a question is raised in the course of the debate leading to a discussion of treaties, our relations with the Paramount Power, the amendment of the Regulation, and Federation.

Thus, there is very little indeed to be discussed in connection with this motion. But it appeared to the Government of Travancore that to rule out discussion on a matter which has been exercising the minds of many persons here and elsewhere, may not be wise or expedient. Moreover, the mover of this motion has taken care to say in the course of his motion that he will move for the grant of Responsible Government subject to the preservation of the prerogatives and the powers of His Highness the Maharaja. I am going to mention presently the reasons why such a resolution is a contradiction in terms. But if a Responsible Government could be brought into existence subject to the present prerogatives and powers of the Maharaja, no doubt, that discussion may be allowed so long as such a discussion does not deal either with Section 17 or with Rule 20 or 21 of the Legislative Rules. An attenuated form of discussion, nevertheless, may not lead to much advantage unless the materials bearing on the matter are placed before this House. It is for the purpose of so doing that I thought it was my duty—as it is my right—to proceed under Section 6 of the Regulation and to address this Assembly so that it might not be said that the Government of Travancore was not willing or would not take into full confidence the accredited representatives of the people of Travancore in regard to a matter of great and fundamental importance.

I rejoice that it has been found possible for the Resident for the Madras States to be here this afternoon. It is needless for me to say that I am making these remarks, though not with his previous approval, yet, with his cognizance. I make it perfectly clear that the full responsibility for what I am saying is that of the Travancore Government and I am very anxious to guard myself against any impression that the Resident for the Madras States, that the Political Department of the Government of India, or the British Government, are, in any way, committed to or have approved anything that I am going to say.

It is my duty to advert to a few circumstances at the beginning. First of all, it must be remembered that the total number of members of this Assembly is 72 of which 62 are non-officials. There are only 24 nominated members of whom 10 alone are officials. In other words, out of a total of 72 members, there are only 10 officials.

In the Council, out of a total of 37 members, 22 are elected, and out of the 15 nominated members, only 10 are officials. There is no State in India which approximates to Travancore so far as the comparative representation of the non-official element in the Legislature of the country is concerned.

The next point relates to the powers of the present Legislature on various matters. As to that, I need only quote an accurate summary of the position given in the authorised publication "Memoranda on Indian States", published under the authority of the Government of India (Page 142 of the latest edition).

"In Travancore the Ruler is the source of all authority: judicial, administrative and legislative. For more than half a century,

the Maharajas of Travancore have treated the revenue of the State as public funds in the strict sense of the term, appropriating to their own use only a very modest civil list which is exhibited in the annual budget of the State....."

"A Legislative Council was instituted in 1888 and in 1904 a Popular Assembly was also established."

Then goes the history of the Travancore Legislature.

"The Legislature is invested with wide powers of legislation and budgetary control. Members of both Chambers have the right to initiate legislation and to discuss the annual budget and except in cases of emergency, demands for grants have to be voted by the Legislature before expenditure is incurred. Members of both Chambers have also the right to ask questions and move resolutions on matters of general public interest. Difference of opinion between the two Chambers is settled by a Joint Committee composed of an equal number of members selected by each Chamber. The Ruler, however, reserves to himself his prerogative to pass legislative measures independent of the Assembly and the Council.

"Taxation is covered with authority conferred by various statutory enactments; the tax-payer's obligations are defined and known; and collection is made on an established system."

This is a short summary of the method of administration here. This constitution exhibits the characteristics of a fully responsive as differentiated from a responsible system of Government. I am only making bold to say and to claim that the Government of Travancore, by reason of the constitution of its Legislature and the powers vested in the Legislature, is fully and thoroughly responsive to public opinion, and the history of its administration also bears out that contention.

In the matter of effecting a change in the present constitution the dyarchical system may first be adverted to. I have some claims to speak upon what dyarchy means or can mean, having been for two years adviser of a dyarchical system of Government, and for five and three-fourths years a member of a dyarchical cabinet. At the same time I have had experience of Indian States' administration in relation to dyarchical Government. All that I wish to say is this: At the end of the period of dyarchical Government, Members of the Executive Council and Ministers of the dyarchical Government of Madras with which I am familiar, both combined together in sending up representations to the Secretary of State for India and to the Government of India to the effect that the system of dyarchy had utterly failed in giving any real responsibility or power to the elected representatives of the people. I shall give an instance in regard to this matter. The Ministers said—I am speaking of Ministers under the dyarchical system as it obtained in the Provinces, and what I say will be borne out by the evidence given by the Ministers themselves, and on their behalf in the various Round Table Conferences, and in the meeting of the Joint Parliamentary Committee,—that so long as the person in charge of law and order was in charge also of funds, expenditure had

to be incurred necessarily at the mercy of or according to the sweet will and pleasure of the person in charge of the purse strings. I may say that the complaint was made on the floor of the Madras Legislative Council itself that certain large schemes were being initiated by a Member of the Executive Council by starving nation-building departments like those of Public Health, Education and Rural reconstruction. The complaint was, in other words, that all the moneys were absorbed by the Finance Department and by the Member of the Executive Council who was in charge of the Public Works portfolio or some other portfolio. That was the kind of rivalry—putting it very crudely, between the two sides of the Government. In other words, the experience of dyarchy in British India led to the Ministers, without a single exception, beginning with the Punjab and ending with Madras, saying that the system of dyarchy led nowhere, to no improvement in the condition of the people, and that what the Ministers wanted to do could not be done so long as there was no full transfer of responsibility. That was the reason why the Round Table Conference came into being, why the Joint Parliamentary Committee was appointed, why the Government of India Act of 1935 was formulated. It must be stated that that very eminent statesman, Lord Willingdon, in the actual working of dyarchy, tried his best to get rid of what he considered to be the drawbacks of the system of dyarchy. In Madras, the Ministers and the Members of the Executive Council sat together in cabinet and discussed every matter together. It was after five and a half years of such discussion that the Ministers and the Members of the Executive Council said that, notwithstanding all these, they could not get the money for any of their functions and that their failure, animadverted upon throughout the country, was due to the system of dyarchy.

I am only mentioning this because it may be as well that it is fairly understood that the dyarchical system is not and may not be an unmixed advantage; at any rate, so far as British India was concerned, it was not. The net result of the whole position is that, under the dyarchical system, the Legislature becomes really only a purely advisory body and does not get any responsibility over finance. As a matter of fact, it goes without saying that if dyarchy is adopted anywhere, it is adopted only as a *pisale*, as a secondary alternative. A very eminent statesman who is at the head of affairs in the neighbouring State, has stated quite recently that dyarchy must be regarded not as a half-way house to actual responsibility but as an alternative to it. Now what about Responsible Government? With regard to this I would quote the same authority I referred to, who has in the course of his speech, made it perfectly clear that there are obligations to the Paramount Power which make it impossible to grant full Responsible Government. I am quoting from a report in "The Hindu".

"I can say that there is no half-way house between full Responsible Government and dyarchy. The critics of dyarchy forget the simple fact that if once it is granted that for some reason or other, full Responsible Government cannot be given, you have no alternative but to establish a dyarchical system of Government....."

The Ruler of the State is under certain obligations to the Paramount Power and those obligations are not confined to any particular field of administration but to all the fields of administration in the State. In that state of affairs, what exactly is to be the constitutional position of the Minister *vis-a-vis* the Ruler, especially with the Ruler's obligations to the Paramount Power."

He comes to the conclusion that theoretically and from a practical point of view the Dewan is the Head of the Administration, "who is responsible for the administration of the State as a whole." That sole responsibility cannot be vested in any person other than the Dewan. Therefore the legal position is perfectly clear. That is, dyarchy is regarded, where it is being attempted, not as an introduction, not as an inevitable transitional stage, towards Responsible Government, but as an *alternative* to responsible government. Secondly, even under that system, it has been made clear that having regard to the obligations of the State to the Paramount Power and the correlative rights between the Paramount Power and the State, full Responsible Government is out of the question and that therefore some other method has to be devised. As there has been a considerable amount of misconception on this matter, I think it is my duty to expound it a little more thoroughly. Taking the Travancore treaties, we find that, as has been observed already, under the Treaty of 1795, the East India Company engages not to impede the administration of the Ruler or Raja as he then was in Travancore. Under the Treaty of 1805 His Highness stipulates and agrees that he will not admit any European foreigner into his service without the concurrence of the British Government. The British Government may occasionally offer advice to His Highness on certain matters and for the mutual welfare of both States. I may at once say that it is nobody's case that the British Government is interfering with the day to day administration of the State. As a matter of fact, we know how generous the British Government has been with us in this matter. Until say, 1926 or 1927 there was the practice of the British Government being consulted in all appointments made in Travancore carrying a salary of over Rs. 500 per mensem. It has on its own accord and volition given up that practice. Until a few years ago the judgments of criminal courts involving death sentence or life imprisonment used to be sent to the Political Agent for information. As a matter of fact, the condition in Mysore was even more rigorous. The British Government used to be consulted in regard to all legislation and all Bills and the report of Select Committees had to be sent to the British Government. Those practices have been given up. Today it may well be said that the British Government on its own volition, on its own individual judgment, in pursuance of a free,—if I may say so—a wise and statesmanlike policy have been detaching themselves from what may be called the day to day administration of the States. But legally the position is what is defined in the treaty. In other words, the treaties of 1795 and 1805 which are in many ways better than the treaties between the British Government and other States impose reciprocal obligations on the Ruler of Travancore and the British Crown. Legally

therefore, it is not possible, without the active concurrence of the British Government, for the Ruler to divest himself of his undivided authority and jurisdiction over the governance of his State in favour of any other authority. This matter was made perfectly clear by that body of very great experts, the Butler Committee, who visited India in 1929.

They say :

"The promise of the King-Emperor to maintain unimpaired the privileges, rights and dignities of the Princes carries with it a duty to protect the Prince against attempts to eliminate him, and to substitute another form of Government."

Sir William Barton, who successively was Resident in Mysore and in Hyderabad in his book entitled "The Princes of India" summarises the position thus :

"Paramountcy vests in the Crown and not in the Government of India and the Princes could not be compelled to transfer their allegiance to a responsible Indian Government."

On the subject of Treaty relations Sir Samuel Hoare, speaking in the House of Commons said :

"Questions of Paramountcy should be kept out of the Federal Bill altogether.....Because we intend to keep questions of this kind outside the scope of the Bill and outside the Instrument of Accession. It does not in the least follow that we are not just as determined as we have always been to make it quite clear, in the most solemn manner, that we regard the treaties between the Crown and the Indian States as inviolate and I give an undertaking that in the most solemn and formal manner we will carry out that undertaking...."

There are certain rights and obligations arising from Paramountcy relations which can apply and be enforced only between the Ruler and the British Crown. The Federation contemplated under the Government of India Act was founded on the recognition of the fundamental idea that the Ruler alone represents his State and that the Ruler is the Government of the State. This was made clear by the Solicitor-General Sir D. Somervell in dealing with an amendment to Clause (6) of the Government of India Bill. He said : "The broad principle is that there shall be a Federation with the States, in which the Ruler of the State shall be the Ruler." He added "Of course, my honourable friend realises that under sub-section 1 (c) the Ruler assumes the obligations of ensuring that due effect is given to the provisions of the Act within his State. The actual business of enacting the law within the State will be the business of the Ruler."

There are similar statements in the Report of the Joint Parliamentary Committee. I need not weary the House by repeating them here. All the functions in relation to Indian States are exercised on behalf of the Crown only by the Viceroy. You will see that in the Government of India Act the Viceroy need not necessarily be the Governor-General. He is an Officer who is vested with the supervisory residual jurisdiction over the

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Indian States and he functions quite irrespectively of the Governor-General. He may happen to be the same individual but he is exercising a dual jurisdiction. Under the scheme of Federation, and according to the Government of India Act [See Sections 2, 3 (2), 6, 12 (g), 14, 101, 125 and 145] the Ruler of an Indian State is alone the person who is a legal entity. With the conferment of Responsible Government a new contract will have to come into being. The present treaties or contracts are between His Majesty the King-Emperor and the Rulers of the Indian States—between His Majesty the King-Emperor and his successors and the Rulers of Indian States and their successors. If the Ruler is not able to discharge the obligations he undertakes under these treaties by reason of the fact that there is a responsible ministry the only alternative is to dismiss the ministry from office. But supposing the same ministry is again returned at the top of the polls and the whole House stands by him what will be the position of the Ruler? How is he to act supposing for instance that his responsibilities to His Majesty the King-Emperor involve a position in contradiction to or by way of divergence from what the minister will agree to. If the Ruler accepts the advice of the minister the treaty obligations are imperilled and the Ruler will be accountable to the Paramount Power. If, however, he implements the treaty obligations he comes into conflict with his own minister and the Legislature to which the minister is responsible. The position of the Ruler in such circumstances would be most unenviable. In such circumstances, the Ruler can discharge his responsibilities only if he has the final residual power in his hands. The moment you grant that the Ruler has the final residual power in his hands it ceases to be Responsible Government and the discussion is exactly what is now taking place in British India with regard to the elimination of finance and foreign affairs and defence from popular control. Therefore in dealing with this question of Responsible Government there are much larger issues involved than appear on the surface. Those issues, as has been very rightly pointed out in Cochin, involve the relations between the Paramount Power and the Indian States. It may be that in course of time the Paramount Power may say—we shall enter into contracts with the people of the States, that is, treating the Maharaja or the Ruler as a constitutional Monarch in the very strict sense of the term and dealing with the Premier of the Indian States. It is possible they may do so. But at the present moment according to the treaties, that can only be done by an act, a consensual act of the Maharaja and the Paramount Power. My submission therefore to this House is that this question of Responsible Government is a matter bound up with the relations between the Paramount Power and the Maharaja.

There is one more matter on which I wish to dwell just for a few minutes. It is easy—it is of course quite easy for any one to say—well all this may no doubt be true. But I am bringing into existence an executive council. I shall appoint a person whom I will call either a minister or some other functionary. As a matter of practice he will have complete freedom but when it comes to a question of conflict between His Highness and himself His Highness' powers will be supreme. But

that will not be Responsible Government. It may be something almost equally good but *not* Responsible Government, because Responsible Government involves the Government of the country by the accredited representatives of the people, not by a particular man who is allowed liberty and licence to do what he likes so long as the person round the corner allows him to do so. I want to make that clear. Now, matters do not stop there. Under the Government of India Act the States send their own nominees to the Federal House. Supposing they send as nominees persons who are elected members and who are wholly beyond the control of the Maharaja or the Government, they may all combine against the interests of the Paramount Power. The Paramount Power may not be willing to allow them to do so. In a country like Travancore it is practically unthinkable that to the Federal House we shall not send at least a fair proportion of elected members. The possibility is there. Difficulties will undoubtedly arise where a nominee of Government may for instance vote for a resolution asking for complete independence for India. That is a possibility. If it is allowed in the future Federal House and if the Travancore nominee votes for it, he votes for it and there is nothing to prevent him from doing so. Suppose a responsible ministry in the State also supports such action. What is the position of the Maharaja then? I want the Honourable Members of the House to keep these ideas perfectly clear. Responsible Government means in civilised connotation the handing over of the power to the people at large to be exercised by the representatives of the people through their accredited leaders. This means that the Maharaja constitutionally ceases to be able to fulfil the obligations which he took on himself by the treaties with the Paramount Power.

To sum up, the position may be thus stated :

Today by virtue of the repeated declarations of British Sovereigns from Her Majesty Queen Victoria, treaties between the King-Emperor and Indian States are inviolate and inviolable.

In these treaties there are mutual rights and obligations which are intended to be fulfilled by His Majesty on the one hand and by the Rulers and their successors personally on the other. The maintenance of these treaties in their present form is inconsistent with any grant of real Responsible Government, in the sense of Government of the people by the people, as Responsible Government is essentially founded on power over finance and power over law and order.

The House adjourned and met again at 3.30 P. M. with the President in the Chair.